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**UTAH LABOR COMMISSION**

**SOVANN SAMUTH,**

**Petitioner,**

**vs.**

**AUTOLIV and PHOENIX  
INSURANCE CO.,**

**Respondents.**

**ORDER DENYING  
MOTION FOR REVIEW**

**Case No. 08-0418**

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Autoliv and its insurance carrier, Phoenix Insurance Co., (referred to jointly as Autoliv hereafter) ask the Utah Labor Commission to review Administrative Law Judge Trayner's denial of Autoliv's motion to dismiss Sovann Samuth's claim for benefits under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated § 63G-4-301 and § 34A-2-801(3).

**BACKGROUND AND ISSUE PRESENTED**

Mr. Samuth seeks permanent disability compensation and other workers' compensation benefits for injuries allegedly caused by a work accident at Autoliv on March 28, 2007. Although Mr. Samuth has submitted a Social Security disability determination and some medical records, he has not submitted an impairment rating for his alleged disability. For that reason, Autoliv asked Judge Trayner to dismiss Mr. Samuth's permanent disability claims. In response to Autoliv's motion to dismiss, Mr. Samuth asserted that he had time to obtain and submit an impairment rating prior to the evidentiary hearing on his claims.

Judge Trayner accepted Mr. Samuth's argument and, on that basis, denied Autoliv's motion to dismiss. In challenging Judge Trayner's decision, Autoliv argues that Mr. Samuth should not be allowed to maintain his claim for permanent disability compensation without first submitting an impairment rating and other evidence of his functional restrictions. Alternatively, Autoliv argues that, if Mr. Samuth is allowed to proceed with his current claims, the evidentiary hearing on those claims should be deferred until after he has submitted an impairment rating and other necessary medical evidence.

**DISCUSSION**

Judge Trayner has not yet held an evidentiary hearing in this matter, or issued a decision on the merits of Mr. Samuth's claim. In denying Autoliv's motion to dismiss Mr. Samuth's claims, Judge Trayner merely allowed this adjudicative proceeding to continue. The threshold question

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before the Commission is whether it should engage in interlocutory review of Judge Trayner's decision.

Interlocutory reviews of Administrative Law Judges' rulings disrupt the adjudicatory process, diminish the ALJs' ability to manage hearings, and delay resolution of claims. Furthermore, the issues raised in interlocutory motions for review may be satisfactorily resolved or rendered moot by subsequent events. In such cases, consideration of an interlocutory motion for review serves no useful purpose, but diverts resources from other cases that are ready for Commission review. In light of these considerations, the Commission will engage in interlocutory review only if the advantages from deciding the issues presented will clearly outweigh "the interruption of the hearing process and the other costs of piecemeal review."<sup>1</sup> As a practical matter, interlocutory review is appropriate only in unusual cases.

In this case, Judge Trayner has allowed Mr. Samuth to attempt to obtain an impairment rating and any other necessary supporting medical evidence while his claims are pending hearing. Without question, Autoliv is entitled to receive any rating and medical evidence well in advance of the hearing. The Commission finds no reason to believe that Judge Trayner will not adjust the hearing schedule to provide Autoliv with reasonable time to prepare its defense. Furthermore, if either Autoliv or Mr. Samuth is dissatisfied with Judge Trayner's final decision, they can then obtain review by the Commission or Appeals Board. Under these circumstances, the Commission concludes it would be inappropriate to consider Autoliv's current request for interlocutory review.

**ORDER**

The Commission dismisses Autoliv's interlocutory motion for review and remands this matter to Judge Trayner for such action as is necessary to complete the adjudication of Mr. Samuth's claims. It is so ordered.

Dated this 30<sup>th</sup> day of May, 2008.

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Sherrie Hayashi  
Utah Labor Commissioner

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<sup>1</sup> Charles H. Koch, Jr., Administrative Law and Practice (1985), §6.75